

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION**

IN RE:

Scott Vincent Van Dyke,

DEBTOR.

BUILDERS WEST, INC.,

Plaintiff,

VS.

SCOTT VINCENT VAN DYKE,

Defendant.

—

CASE NO. 21-60052
Chapter 7

ADVERSARY PROCEEDING

NO. 23-06001

PLAINTIFF'S NOTICE OF DISMISSAL

Builders West, Inc. (“Builders West”), Plaintiff in this case and a creditor and party in interest in the above-styled bankruptcy, files this its *Notice of Dismissal* (the “Notice”), pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i) and Fed. R. Bankr. P. 7041, and in support thereof would respectfully show the Court as follows:

1. Builders West initiated this adversary proceeding against Defendant Scott Vincent Van Dyke, the debtor in the above-styled chapter 7 bankruptcy case (the “Debtor” or “Defendant”) by filing *Plaintiff’s Original Complaint* (the “Complaint”) on January 23, 2023. Builders West sought a determination that, to the extent that the Debtor is found to have an exempt interest in the real property known as 1515 South Boulevard, Houston, Texas 77006, the maximum amount the Debtor may claim as exempt is capped pursuant to 11 U.S.C. § 522(q)(1)(B)(i) and (ii).

2. On March 30, 2023, Defendant filed *Defendant's Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6)* [Doc. 10]. In response, Builders West filed *Plaintiff's First Amended*

Complaint [Doc. 11] (the “Amended Complaint”) and *Plaintiff Builders West, Inc.’s Response to Defendant’s Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6)* [Doc. 12]. On May 3, 2023, the Court entered the *Order Granting Defendant’s Motion to Dismiss* [Doc. 13] (the “Order”), dismissing the Complaint but allowing Builders West to amend by May 31, 2023, or rely on the Amended Complaint.

3. Defendant has been served with process and has not served an answer or a motion for summary judgment.

4. This case is not a class action under Fed. R. Civ. P. 23, a derivative action under Rule 23.1, or an action related to an unincorporated association under Rule 23.2. A receiver has not been appointed in this case. This case is not governed by any federal statute that requires a court order for dismissal of the case.

5. Builders West has not previously dismissed any federal or state court suit based on or including the same claims as those presented in this case.

6. This dismissal is without prejudice.

Dated: May 30, 2023

Respectfully submitted,

By: /s/Lloyd A. Lim
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